

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

XIAO YE BAI,

Case No. 2:20-cv-02042-KJD-NJK

Petitioner,

v.

**ORDER**STATE OF NEVADA, *et al.*,

Respondents.

Petitioner Xiao Ye Bai, , a *pro se* Nevada prisoner, has not properly commenced this habeas action by either paying the standard \$5.00 filing fee or filing an application for leave to proceed *in forma pauperis* (“IFP”). He submitted a Petition for Writ of Habeas Corpus (ECF No. 1-1) under 28 U.S.C. § 2254, but he did not pay the \$5 filing fee or submit an IFP application.

Under 28 U.S.C. § 1914(a) and the Judicial Conference Schedule of Fees, a \$5.00 filing fee is required to initiate a habeas action in a federal district court. The court may authorize an indigent prisoner to begin a habeas action without paying the \$5 fee if he or she submits an IFP application on the approved form and includes three specific documents: (a) the prisoner’s financial declaration showing an inability to prepay fees and costs, (b) a financial certificate signed by the prisoner and an authorized prison official, and (c) a copy of the prisoner’s account statement for the six-month period prior to filing. 28 U.S.C. § 1915(a); LSR 1-1, LSR 1-2.

Bai will have approximately 45 days from the date of this order to either pay the \$5 filing fee or submit a complete IFP application with all required documentation.

**IT IS THEREFORE ORDERED:**

1. The initial screening of Petitioner Xiao Ye Bai’s Petition for Writ of Habeas Corpus (ECF No. 1-1) under the Rules Governing Section 2254 Cases and consideration of his Motion for Appointment of Counsel (ECF No. 1-3) are deferred to until such time as he has fully complied with this order.

///

*Ken S*

KENT J. DAWSON  
UNITED STATES DISTRICT JUDGE

United States District Court  
DISTRICT OF NEVADA

\_\_\_\_\_  
**Plaintiff/Petitioner,**  
v.  
\_\_\_\_\_  
**Defendant/Respondent,**

**APPLICATION TO PROCEED  
IN FORMA PAUPERIS  
FOR INMATE**

**CASE NUMBER:**

I, \_\_\_\_\_, declare that I am the (*check the appropriate box*)

\_\_\_ Plaintiff  
(filing 42 U.S.C. § 1983)

\_\_\_ Movant  
(filing 28 U.S.C. § 2255 motion)

\_\_\_ Petitioner  
(writ of habeas corpus  
28 U.S.C. §§ 2254 or 2241)

\_\_\_ Other  
\_\_\_ Defendant/Respondent

in this case. I am unable to prepay the fees of this proceeding or give security because of my poverty. I acknowledge and consent that a portion of any recovery, as directed by the court, shall be paid to the clerk for reimbursement of all fees incurred by me as a result of being granted leave to proceed *in forma pauperis*.

In further support of this application, I answer the following questions:

1. Are you presently employed?    \_\_\_Yes            \_\_\_No
  - a. If the answer is “yes,” state the amount of your salary or wages per month, and give the name and address of your employer. (List gross and net salary.)
  - b. If the answer is “no,” state the date of last employment and the amount of the salary or wages per month which you received.
2. Have you received within the past twelve months any money from any of the following sources?
  - a. Business, profession or other form of self-employment?    \_\_\_Yes            \_\_\_No

- |    |   |                              |                             |
|----|---|------------------------------|-----------------------------|
| b. | Rent payments, interest or dividends?           | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| c. | Pensions, annuities or life insurance payments? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| d. | Gifts or inheritances?                          | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| e. | Any other sources?                              | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

If the answer to any of the above is "yes," describe each source of money and state the amount received from each during the past twelve months.

3. Do you own any cash, or do you have money in checking or savings accounts (include any funds in prison accounts, and any funds on deposit with a bank, saving & loan, etc., outside the prison) ?

☐ Yes ☐ No

If the answer is "yes," state the total value and list the location of each account, type of account, and amount or balance in the account. Do not include your account number(s).

4. Do you own or have any interest in any real estate, stocks, bonds, notes, trusts, automobiles or other valuable property (excluding ordinary household furnishings and clothing)?

☐ Yes ☐ No

If the answer is "yes," describe the property, its location and state its approximate value.

5. List the persons who are dependent upon you for support, state your relationship to those persons, and indicate how much you contribute toward their support each month.

6. Do you receive any income from disability, Social Security or any other pension?

☐ Yes ☐ No

If the answer is "yes," describe the source and amount received each month.

7. Have you placed any property, assets or money in the name or custody of anyone else in the last two years?

☐ Yes ☐ No

If the answer is "yes," give the date, describe the property, assets or money, give the name of the person given custody of the item and the reason for the transfer.

## ACKNOWLEDGMENT

I, the undersigned, acknowledge that I have read the foregoing and that the information contained therein is true and correct to my own knowledge and belief.

Further, I state that I have not directly or indirectly paid or caused to be paid to any inmate, agent of an inmate, or family member of any inmate a sum of money, favors or anything else for assistance in the preparation of this document or any other document in connection with this action.

Further, I acknowledge that if any of the information included in this motion for leave to proceed *in forma pauperis* is false or misleading, I understand that sanctions may be imposed against me. Those sanctions may include, but are not limited to, the following:

- (1) dismissal of my case with prejudice;
- (2) imposition of monetary sanctions;
- (3) the Nevada Department of Prisons may bring disciplinary proceedings for a violation of MJ-48 of the Code of Penal Discipline, which can include all sanctions authorized under the Code including the loss of good time credits and punitive confinement; and
- (4) perjury charges.

Further, I hereby authorize the United States District Court, District of Nevada, or its representative, to investigate my financial status, and authorize any individual, corporation, or governmental entity to release any such information to the said Court or its representative.

Further, I acknowledge and consent that a portion of any recovery, as directed by the court, shall be paid to the clerk for reimbursement of all fees and costs incurred by me as a result of being granted leave to proceed *in forma pauperis*.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(Signature of Applicant)

I understand that a false statement or answer to any question in this declaration will subject me to penalties of perjury. **I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT.** See 28 U.S.C. § 1746 and 18 U.S.C. § 1621.

Signed at \_\_\_\_\_  
(Location)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Inmate Prison Number)

**FINANCIAL CERTIFICATE**

I request that an authorized officer of the institution in which I am confined, or other designated entity, such as Inmate Services for the Nevada Department of Prisons (NDOC), complete the below Financial Certificate.

I understand that:

(1) if I commence a petition for writ of habeas corpus in federal court pursuant to 28 U.S.C. § 2254, the filing fee is \$5.00, and that such fee will have to be paid by me if the court denies my *in forma pauperis* application;

(2) if I commence a civil rights action in federal court pursuant to 42 U.S.C. § 1983, the filing fee is \$400.00 (which includes the \$350 filing fee and a \$50 administrative fee), which I must pay in full; and

(a) if my current account balance (line #1 below) is \$400.00 or more, I will not qualify for *in forma pauperis* status and I must pay the full filing fee of \$400.00 before I will be allowed to proceed with the action;

(b) if I do **NOT** have \$400.00 in my account as reflected on line #1 below, before I will be allowed to proceed with an action I will be required to pay 20% of my average monthly balance (line #2 below), or the average monthly deposits to my account (line #3 below), whichever is greater, and thereafter I must pay installments of 20% of the preceding month's deposits to my account in months that my account balance exceeds \$10.00 (if I am in the custody of the NDOC, I hereby authorize the NDOC to make such deductions from deposits to my account, and I further understand that if I have a prison job, then the 20% of my paycheck that is guaranteed to me as spendable money will be sent to the court for payment of the filing fee); and

(c) I must continue to make installment payments until the \$350.00 filing fee is fully paid, without regard to whether my action is closed or my release from confinement. The \$50 administrative fee will be waived only if I am granted permission to proceed *in forma pauperis*.

Type of action (check one): ☐ civil rights ☐ habeas corpus

\_\_\_\_\_  
INMATE NAME (printed)

\_\_\_\_\_  
SIGNATURE & PRISON NUMBER

1. CURRENT ACCOUNT BALANCE \_\_\_\_\_

2. AVERAGE MONTHLY BALANCE\* \_\_\_\_\_

3. AVERAGE MONTHLY DEPOSITS\* \_\_\_\_\_

4. FILING FEE (based on #1, #2 or #3, whichever is greater) \_\_\_\_\_

\* for the past six (6) months, from all sources, including amount in any savings account that is in excess of minimum amount that must be maintained  
\_\_\_\_\_

I hereby certify that as of this date, the above financial information is accurate for the above named inmate.

**(Please sign in ink in a  
color other than black.)**

\_\_\_\_\_  
AUTHORIZED OFFICER

\_\_\_\_\_  
DATE

\_\_\_\_\_  
TITLE